

RESOLUTION NO. RDA2008-02

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF
THE CITY OF LODI APPROVING AND ADOPTING RULES
GOVERNING PARTICIPATION AND RE-ENTRY
PREFERENCES FOR PROPERTY OWNERS, OPERATORS
OF BUSINESSES, AND BUSINESS TENANTS IN THE
LODI COMMUNITY IMPROVEMENT PROJECT AREA

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WHEREAS, the Redevelopment Agency of the City of Lodi (the "Agency") has initiated proceedings for the consideration of the adoption of the Lodi community Improvement Project (the "Project"); and

WHEREAS, Section 33345 of the California Redevelopment Law (Health and Safety Code Section 33000 et seq.) provides that a redevelopment agency shall adopt and make available for public inspection rules to implement the operation of owner participation in connection with a redevelopment plan; and

WHEREAS, Health and Safety Code Section 33339.5 provides that a redevelopment agency shall adopt and make available for public inspection rules regarding the extension of reasonable preferences to persons who are engaged in business in the project area to re-enter in business within the redeveloped area if they otherwise meet the requirements prescribed by the redevelopment plan; and

WHEREAS, the Agency desires to adopt rules, which would apply to the Lodi Community Improvement Project.

NOW, THEREFORE, BE IT RESOLVED by the Redevelopment Agency of the City of Lodi as follows:

Section 1. The Redevelopment Agency of the City of Lodi hereby approves and adopts the "Rules Governing Participation and Reentry Preferences for the Lodi community Improvement Project Area" (referred to for convenience as the "Owner Participation Rules") in the form attached hereto as Exhibit "A" and incorporated herein by reference.

Section 2. The Owner Participation Rules shall be effective as of the date of this Resolution.

Dated: April 16, 2008

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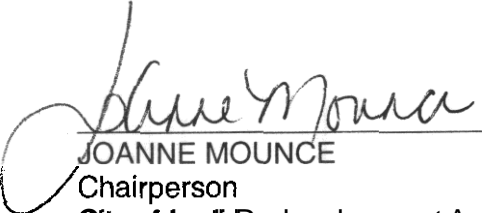
I hereby certify that Resolution **No. RDA2008-02** **was** passed and adopted by the Members of the Redevelopment Agency of the City of Lodi in a regular meeting held April **16**, 2008, by the following vote:

AYES: MEMBERS – Hansen, Hitchcock, Johnson, Katzakian, and
Chairperson Mounce

NOES: MEMBERS – None


ABSENT: MEMBERS – None

ABSTAIN: MEMBERS – None



JOANNE MOUNCE
Chairperson
City of Lodi Redevelopment Agency

Attest:



RANDI JOHL
Secretary
City of Lodi Redevelopment Agency

RDA2008-02

OWNER PARTICIPATION RULES**FOR THE LODI COMMUNITY IMPROVEMENT PROJECT****1. PURPOSE AND INTENT**

These Owner Participation Rules (the “Owner Participation Rules”) are promulgated to implement the requirements of the Community Redevelopment Law, California Health and Safety Code Section 33000, et seq., and to implement the provisions of the Redevelopment Plan for the Lodi Community Improvement Project (“Project”), particularly with respect to participation by Owners and extension of reentry preferences to Businesses in the project area of the Project (the “Project Area”). These Owner Participation Rules shall be applicable to the Lodi Community Project, as it now exists and as it may be amended in the future. The objectives of these Owner Participation Rules are (i) to implement the operation of owner participation in connection with the Redevelopment Plan for Project by Owners of real property located within the boundaries of the Project Area by encouraging, soliciting, and, as *to* participants selected by the Agency, carrying out by agreement participation in the Project Area, and (ii) to extend and establish reasonable preference to persons who are engaged in business in the Project Area to reenter in business within the Project Area. These Owner Participation Rules provide to Owners a reasonable opportunity to identify their interest in owner participation, to submit Development Proposals, to receive good faith consideration by the Agency of complete Development Proposals, and, as selected by the Agency, to participate in the redevelopment in the Project Area. These Owner Participation Rules also allow for negotiations for the redevelopment and participation in the Project Area by persons and entities other than Owners.

Adoption of owner participation and business reentry rules is required notwithstanding the fact that the redevelopment plan for the Project Area (the “Redevelopment Plan”) will not contain the power of eminent domain by the Agency.

2. DEFINITIONS

For the purposes of these Owner Participation Rules, the following terms shall have the following definitions:

“Agency” means the Redevelopment Agency of the City of Lodi, a public body, corporate and politic.

“Agreement” means a transactional agreement between the Agency and one or more third parties and includes any owner participation agreement, disposition and development agreement, affordable housing agreement or any other agreement under which the Agency commits to participate and/or provide financial assistance to a proposed development or redevelopment project which does not consist of public improvements.

“Business” or “Businesses” mean any person, persons, corporation, association, partnership, limited liability company, or other entity lawfully engaged in business within the Project Area on the date of adoption of these Owner Participation Rules.

“City” means the City of Lodi, California, a municipal corporation.

“*City Council*” means the legislative body of the City of Lodi.

“*Day*” is defined in the Government Code of the State of California.

“*Development Proposal*” means a complete and detailed proposal for a development or redevelopment project or other participant proposal which is timely submitted to the Agency, in accordance with, and meeting the requirements of, Section **3.2** hereof.

“*Displaced Business*” means a Business, if any, which is displaced directly by Agency action in implementation of a public program or project.

“*Executive Director*” means the Executive Director of the Agency, or his/her designee.

“*Implementation Plan*” means, initially, the Redevelopment Plan, and thereafter each implementation plan as thereafter adopted by the Agency from time to time pursuant to section **33490** of the California Health and Safety Code.

“*Owner*” or “*Owners*” mean any person, persons, corporation, association, partnership, limited liability company or other entity (a) holding fee title of record to real property in the Project Area on the date of adoption of these Owner Participation Rules.

“*Owner Participation Agreement*” means a type of Agreement which is entered into between the Agency and an Owner in accordance with the provisions of the applicable Redevelopment Plan and the Owner Participation Rules as set forth herein.

“*Owner Participation Rules*” means these rules governing owner participation and reentry preferences in the Project Area.

“*Non-Owner*” means any person or entity which is not an Owner in the Project Area, but is interested in the submittal and consideration of a Development Proposal by the Agency.

“*Participant*” means an Owner which has entered into an Owner Participation Agreement with the Agency.

“*ProjectArea*” means the temtory within the boundaries of the Project Area.

“*Project*” means the Lodi Community Improvement Project as adopted and merged and as it may be amended from time to time.

“*Redevelopment Plan*” means the redevelopment plan as shall have been adopted by the City Council establishing the Project, as now adopted and as they may be amended from time to time.

“*Redevelopment Project*” means Lodi Community Improvement Project, which was adopted by the City Council of the City of Lodi by Ordinance No. ___, as may be amended from time to time.

“*Statement of Interest*” means a statement by an Owner that such Owner is interested in participation in the development or redevelopment of property or other form of participation. A Statement of Interest, whether solicited by the Agency or submitted by an Owner of its own initiative, must be in writing, and shall be in substantially the form of the Owner’s Statement of Interest to Participate which is attached and incorporated as Exhibit “A” to these Owner Participation **Rules**, and which may be updated from time to time.

“Statement of Interest in Business Reentry” means a statement by a Business that such Business is interested in reentry into the Project Area. A Statement of Interest in Business Reentry, whether solicited by the Agency or submitted by a Business of its own initiative, must be in writing, and, shall be in substantially the form of the Statement of Interest in Business Reentry which is attached and incorporated as Exhibit “B” to these Owner Participation Rules, and which may be updated from time to time.

“Tenant” means any person, persons, corporation, association, partnership or other entity that rents or leases **real** property in the Project Area on the date of adoption of these Owner Participation Rules.

3. PROCEDURES FOR OWNER PARTICIPATION

Owners within the Project Area who desire to exercise their participation rights shall follow the procedures which are set forth in this Section 3:

3.1 Solicitation of Participation by the Agency to Owners; Submission of Statement of Interest by Owners.

(a) The Agency, through its staff, shall notify Owners within the Project Area of the opportunity to submit a Statement of Interest and a Development Proposal for the development, or other participation proposal. In addition, upon the adoption of the annual budget, which includes resources available for owner participation, notice will be given. Such notification shall be made through one of the following methods, any of which shall be deemed sufficient to provide adequate notice:

(i) The Agency shall send notice via First Class mail to the Owners of parcels within the boundaries of the Project Area, or

(ii) The Agency shall cause to be published a legal notice in a newspaper of general circulation notifying Owners in the Project Area of the opportunity to submit a Statement of Interest, a Development Proposal for the development of property, or other participation proposal, or

(iii) The Agency shall cause to be posted on the website maintained by the City a form of notice notifying Owners in the Project Area of the opportunity to submit a Statement of Interest, a Development Proposal for the development of property, or other participation proposal.

(iv) An owner may submit a Statement of Interest to the Agency at any time.

3.2 Submission and Form of Development Proposals.

(a) Development Proposals shall include the following:

(i) Construction and development pro forma, a site plan, developer qualifications, a narrative description of the market support for the proposed project, an operating pro forma, as applicable, evidence of likelihood of obtaining franchise or manufacturer approval (if applicable), and an explanation of the economic benefits to the Agency, City and community of the proposed project.

(b) A Development Proposal submitted by an Owner may provide for an Owner to participate in substantially the same location as the Owner's present use, may provide for expansion of the Owner's present use by retaining all or portions of Owner's property and acquiring adjacent property, may provide for the Owner's participation in a different location within the Project Area from the location in which the Owner's property is currently located, or may propose some other form of participation by the Owner in the redevelopment of the proposed development site.

(c) Owners shall provide such additional information as may be reasonably requested by the Executive Director and Agency staff.

(d) The Agency's staff will be available to discuss owner participation, respond to questions, and assist Owners in the preparation of Development Proposals; provided that the Owner in all instances, and not the Agency staff, shall be responsible for the content, form, and preparation of any Development Proposal.

3.3 Agency Board Evaluation of Development Proposals Submitted by Owners.

(a) The Agency shall consider in good faith and without discrimination all Development Proposals submitted by Owners and determined by Agency staff to be complete at a regular or special Agency meeting. After good faith consideration of any Development Proposal, the Agency may authorize Agency staff to commence negotiations subject to availability of funding, resources, and other limiting factors for the purpose of arriving at an Owner Participation Agreement.

(b) In the exercise of its discretion, the Agency acknowledges that its primary purpose, objective, and duty is to carry out and implement the Redevelopment Plan and to eliminate blight in the interest of the health, safety and welfare of the community; the Agency additionally seeks to expand, preserve and improve the community's supply of affordable housing available subject to enforceable restrictions as provided under sections 33334.2 and 33334.3 of the Health and Safety Code. The Agency's decision to accept, conditionally accept, or reject any Development Proposal will be made in good faith and in consideration of such purpose, objective, and duty.

(c) Development Proposals shall be evaluated by the Agency with consideration of factors determined by the Agency to be relevant in carrying out its duties to implement the applicable Redevelopment Plan and the Implementation Plan, including without limitation the following factors:

(i) Conformity of the Development Proposal, including proposed uses, with the requirements, intent, goals, and objectives of the applicable Redevelopment Plan, the Implementation Plan, the City General Plan, any applicable specific plan, zoning, and other development standards, and other applicable enactments;

(ii) Quality of design and project concept;

(iii) The employment opportunities and economic benefits to the Agency and to the City which can be reasonably expected to result from the implementation of the Development Proposal;

(iv) The qualifications of the developer entity team proposed to develop the project, including financial capacity to undertake the project, prior experience with similar development, quality of prior development projects, degree of site control, ability to obtain financing, ability to abide by Agency design standards and development controls, and readiness to proceed;

(v) The estimated cost, if any, of City and/or Agency financial involvement, including the provision of City and/or Agency public services, subsidies, or public improvements required if the Development Proposal is accepted, and the availability of sufficient Agency and/or City funds to pay such costs;

(vi) The economic benefits to the Agency, the City, and the community, as determined by a cost/benefit analysis, if the Development Proposal were to be approved and the proposed project is implemented;

(vii) The effect of the Development Proposal on elimination of blighting conditions within the Project Area and the upgrading of uses;

(viii) The effect of the Development Proposal on achieving the affordable housing objectives of the Agency;

(ix) The probability of successful implementation of the Development Proposal, including without limitation likelihood of obtaining related approvals (such as approval by tenants, franchisor(s), or manufacturer(s), if applicable), as well as likelihood of economic success;

(x) The time schedule for completion of the proposed project;

(xi) The completeness of the Development Proposal;

(xii) The environmental benefits or impacts of the proposed development, and evaluation of the cost and method of mitigation of such impacts, if any;

(xiii) The impact of the Development Proposal on existing buildings and improvements with historic qualities or architectural qualities which enhance or benefit the Project Area; and

(xiv) The merits of the Development Proposal relative to the merits of other Development Proposals considering available resources.

(d) The Agency reserves the right to reject any and all Development Proposals and/or such other requests as may be made in connection with these Owner Participation Rules.

(e) The Agency does not, by adoption of these Owner Participation Rules, commit any resources or appropriate or approve the expenditure of any moneys or approve any development, redevelopment or renovation.

3.4 Unsolicited Submittal of Statements of Interest and Development Proposals by Owners.

(a) Under these Owner Participation Rules, Owners may submit Statements of Interest to the Agency on their own initiative, rather than through the solicitation of interest by the Agency.

3.5 Concurrent Consideration of Development Proposal(s) Submitted by Non-Owners.

(a) Any Non-Owner may submit to the Agency a Development Proposal for the proposed development of property within a Project Area at the same time that Owners are submitting Development Proposals solicited by the Agency pursuant to these Owner Participation Rules.

(b) The Agency may, but is not required to, evaluate, consider, and take action on such Development Proposal(s) from one or more Non-Owners concurrently with its evaluation, consideration, and action on the Development Proposals solicited by the Agency and submitted by Owners under these Owner Participation Rules.

3.6 Negotiations Toward Execution of Owner Participation Agreement. Subject to authorization of the Agency, Agency staff will, within the limitations of its currently available resources, use good faith efforts to negotiate toward and enter into a mutually acceptable Owner Participation Agreement (or other Agreement, as applicable) with each Owner who has submitted a Development Proposal. Each Agreement shall contain provisions necessary to ensure that the Development Proposal will be carried out with such covenants, conditions and restrictions as the Agency reasonably requires. Each Agreement will require the Participant to execute and record such further documents as the Agency may require in order to ensure conformance with the Community Redevelopment Law and other applicable laws, to provide record notice of covenants, conditions and restrictions which are imposed by the Agreement, and to provide security for the obligations of the Participant. All Agreements with an Owner shall become effective only when duly approved by the Agency Board and executed by the Owner/Participant. Good faith efforts by the Agency shall not be deemed to require or imply that public funds will be made available in connection with the Development Proposal or the activities proposed thereunder.

3.7 Agency Action on Agreement for Development with Non-Owner.

(a) The Agency may enter into an Agreement with any Non-Owner for the development or rehabilitation of property implementing a Development Proposal submitted by a Non Owner.

4. REENTRY PREFERENCES FOR DISPLACED BUSINESSES

Persons who are engaged in business in the Project Area which have been displaced by Agency activities who desire to exercise their reentry preferences shall follow the procedures which are set forth in this Section 4.

4.1 List of Displaced Businesses. The Agency will notify any business which is a Displaced Business (as defined herein) of their right of reasonable preference to reenter in business within the Project Area. Such written request shall be in writing and, if presentable, should be substantially in the form of the Statement of Interest in Business Reentry in the Project

Area which is attached and incorporated as Exhibit “B” to these Owner Participation Rules. The Agency shall maintain a list of such Displaced Businesses who have submitted to the Agency a written request for notice of opportunities to reenter within the Project Area. The Agency may periodically require Displaced Businesses on such list to resubmit requests for notice of reentry opportunities, and may delete Displaced Businesses from such list which do not resubmit such requests.

4.2 Notice of Reentry Opportunities. In the event that the Agency becomes involved with any redevelopment activity through an Owner Participation Agreement or Disposition and Development Agreement in which a Displaced Business might relocate, the Agency, through its staff, shall notify the project proponent in connection with such proposed Owner Participation Agreement or Disposition and Development Agreement as to the Agency’s list of the opportunity to reenter in business in the Project Area. Notwithstanding the foregoing, if a Business owner requests that the name of such owner’s business not be disclosed in connection with prospective agreements, the Agency staff need not disseminate the name of such business.

4.3 Agency Extension of Preferences. The Agency shall use good faith efforts to secure reasonable preferential rights for Displaced Businesses in Owner Participation Agreements or Disposition and Development Agreements which provide for the development of structures in which a Displaced Business might relocate. Displaced Businesses which desire to pursue such reentry opportunities may negotiate directly with the owner of the property in which the reentry opportunity is located. The Agency shall use good faith efforts to negotiate or intercede on behalf of the Displaced Business desiring to re-enter; provided that the activities and uses conducted by such Displaced Business are consistent with and further the proposed development, and provided further that such efforts shall not be deemed to require the payment of moneys by the Agency. The ability of Displaced Businesses to re enter will depend, in part, upon the ability of the Displaced Businesses to participate on the basis proposed, including such factors as the ability to pay the requisite rent, the suitability of the proposed use of the Displaced Business for the development under consideration, the Displaced Businesses’ readiness to proceed, and other factors. The preferences established by this Section 4 shall not be construed to require the Agency to provide a subsidy or other financial assistance to such Displaced Businesses to enable them to reenter in the Project Area.

5. PROCEDURE FOR AMENDING OWNER PARTICIPATION RULES

The Agency may amend these Owner Participation Rules at a duly noticed regular or special meeting held after their adoption.

EXHIBIT "A"

REDEVELOPMENT AGENCY OF THE CITY OF LODI

OWNER'S STATEMENT OF INTEREST TO PARTICIPATE

I hereby express my interest in participation in the Lodi Community Improvement Project (the "Project") (See attached map for Project Area boundaries):

1. Name _____ Telephone _____
2. Address _____
3. I am the record fee owner of the following property within the Project Area or hold a proprietary interest: _____

I wish to participate in the Project Area checked above as follows:

- ☐ I wish to construct a new building or other improvements on my present property.
- ☐ I wish to acquire property within the Project Area and construct a new building or other improvements on the property I acquire. I acknowledge that the Agency does not have the power of eminent domain. (Identify proposed property below)
- ☐ I wish to acquire property within the Project Area for expansion of my current business. I acknowledge that the Agency does not have the power of eminent domain. (Identify **proposed** property below)
- ☐ I wish to rehabilitate my present property.
- ☐ I wish to acquire property within the Project Area and rehabilitate an existing building or other improvements on the property I acquire. I acknowledge that the Agency does not have the power of eminent domain. (Identify proposed property below)
- ☐ I wish to sell my present property.
- ☐ Other; if necessary, continue on additional page(s). Please Describe:

- ☐ Location of property proposed to be acquired _____

4. Background, experience, and information concerning you and your proposal (you may include further information, including a site plan, construction and operating pro forma, and other information relevant to your proposed activity, on additional sheets if you desire to do so):
- (a) Generally describe background and experience, particularly with respect to development of real property: _____

- (b) Describe the development and redevelopment activities you propose and indicate your experience relevant to your proposal _____

- (c) Other remarks: _____

5. By my signature below:

- I acknowledge receipt of a copy of the Owner Participation Rules and Reentry Preferences. The Owner Participation Rules and Reentry Preferences describe in detail when and how I may participate in connection with the Project, and the Agency's obligations with respect to my proposal.
- I understand that after I timely submit this Statement of Interest I will be required to submit a detailed "Development Proposal" in order for my Development Proposal to be considered by the Redevelopment Agency of the City of Lodi.
- I understand that submission of this Statement of Interest does not in any way obligate me to participate in the Project Area, or obligate the Redevelopment Agency of the City of Lodi to approve my proposal.

This Statement of Interest is presented to the Agency pursuant to the Owner Participation Rules and Reentry Preferences on the _____ day of _____ 200_.

Signed: _____

Print Name: _____

Title (if applicable): _____

Date: _____

EXHIBIT "B"

REDEVELOPMENT AGENCY OF THE CITY OF LODI

**STATEMENT OF INTEREST IN BUSINESS REENTRY
IN THE PROJECT AREA**

I hereby express my interest in reentering business in the Lodi Redevelopment Project (the "Project") (*See* attached map for Project Area boundaries):

1. Name _____ Telephone _____

2. Address _____

3. I am the owner of the following Business which was displaced from the Project Area by action of the Redevelopment Agency of the City of Lodi (Identify name and address of displaced Business): _____

Manner in which displacement occurred: _____

4. I wish to reenter business in the Project **Area** checked above as follows:

☐ I wish to be notified by the Agency of opportunities to lease finished rental space within the Project Area.

☐ Other. Please Describe (if necessary, continue on additional page(s)):

5. Background, experience, and information concerning you and your interest in reentering business within the Project Area.

(a) Generally describe business background and experience: _____

(b) Describe the business activities you propose and indicate your experience relevant to your proposal _____

(c) Other remarks: _____

6. By my signature below:

I understand that submission of this Statement of Interest in Business Reentry does not in any way obligate me to reenter business within the Project Area, or obligate the Redevelopment Agency of the City of Lodi to provide any financial or other assistance to me/my business or obtain a business opportunity for me.

Signed _____

Print Name: _____

Title (if applicable): _____

Date: _____